

For information regarding installation, alteration and special service charges see 86 Ill. Adm. Code 130.450. (This is a GIL.)

June 7, 2007

Dear Xxxxx:

This letter is in response to your letter dated May 16, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am writing on behalf of one of my clients who is in the business of selling the building of sheds. Individuals and businesses purchase a shed from my client and a contractor comes in to build the shed. The storage sheds are various designs and sizes. The customer pays my client for the purchase of the shed and also pays the contractor for building the shed. Some sheds are placed on a poured concrete foundation, while others are not, but all sheds are meant be permanent structures.

In Wisconsin these sales are considered improvements to real property and are not subject to sales tax. Sales Tax returns are not required to be filed in Wisconsin.

My client is interested in engaging business in Illinois. Please advise how this is handled for sales tax purposes.

DEPARTMENT'S RESPONSE

It is not clear to us exactly what you are selling. However, we hope that the information will be useful.

In Illinois, when a seller engages in the business of selling tangible personal property at retail, the proceeds from the sale of the tangible personal property are subject to Retailers' Occupation Tax.

When a seller engages in the business of selling tangible personal property at retail, and such tangible personal property is installed by the retailer, the receipts from such installation charges must be included in the gross receipts upon which the Retailers' Occupation Tax liability is measured if such installation charges are included in the selling price of the property being sold. If, however, the seller and buyer agree upon the installation charges separately from the selling price of the tangible personal property which is sold, then the receipts from the installation charges are not a part of the "selling price" of the tangible personal property which is sold. Instead such charges constitute a service charge, separately contracted for, which need not be included in the figure upon which the seller computes his Retailers' Occupation Tax liability. See Section 130.450.

If the installation is to permanently affix the tangible personal property to real estate, however, the retailer is acting as a construction contractor and he incurs a Use Tax liability only on his cost price of materials. See the enclosed copy of Section 130.1940 and 130.2075.

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

MPM:msk